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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

JOHN D. HUNTER,

Defendant and Appellant.

B267547

(Los Angeles County  
Super. Ct. No. BA199284)

APPEAL from an order of the Superior Court of Los Angeles County, Kathleen Kennedy-Powell, Judge. Dismissed.

John D. Hunter, in pro. per., for Defendant and Appellant.

No appearance from Plaintiff and Respondent.

Defendant, John D. Hunter, purports to appeal from an order denying his habeas corpus petition. We have a duty to raise issues concerning our jurisdiction on our own motion. (*Jennings v. Marralle* (1994) 8 Cal.4th 121, 126; *Olson v. Cory* (1983) 35 Cal.3d 390, 398.) As a result, we issued an order to show cause concerning possible dismissal of defendant's appeal and availed the parties the opportunity to orally argue the issue. The denial of a habeas corpus petition is not appealable. (*In re Clark* (1993) 5 Cal.4th 750, 767, fn. 7; *In re Hochberg* (1970) 2 Cal.3d 870, 876, disapproved on other grounds in *In re Fields* (1990) 51 Cal.3d 1063, 1070, fn. 3.) Thus, we have no jurisdiction to consider the present appeal from an order denying any habeas corpus petition.

Defendant argues though that we have jurisdiction over the present appeal because he has also appealed from a motion to vacate an illegal sentence. An appeal from a postjudgment order in connection with a legally unauthorized sentence is appealable pursuant to Penal Code section 1238, subdivision (a)(2). (*People v. Hamilton* (2003) 114 Cal.App.4th 932, 938; see *People v. Karaman* (1992) 4 Cal.4th 335, 345-346, fn. 11, 349, fn. 15.) We augmented the record to include the pro se motion to strike or vacate a purported illegal sentence filed by defendant on September 2, 2014. It is the denial of this motion that defendant contends vests this court with jurisdiction to decide the merits of his contentions. A legally unauthorized sentence is one which a trial court has no authority to impose. (*In re Sheena K.* (2007) 40 Cal.4th 875, 882 & fn. 3, 886-887; *People v. Scott* (1994) 9 Cal.4th 331, 354.) Defendant's pro se motion raises no such contention. Rather, defendant argues he failed to waive his constitutional rights when entering a guilty plea. Merely labeling a motion as one involving an illegal sentence does not vest this court with jurisdiction. The gravamen of the motion was a challenge to the validity

of a plea; not to the legality of a sentence. Thus, we have no jurisdiction over the present appeal based upon the denial of the motion to vacate a purported illegal sentence.

The appeal is dismissed.

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TURNER, P. J.

We concur:

KRIEGLER, J.

BAKER, J.